

## INCEPTION IMPACT ASSESSMENT

Inception Impact Assessments aim to inform citizens and stakeholders about the Commission's plans in order to allow them to provide feedback on the intended initiative and to participate effectively in future consultation activities. Citizens and stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have, including on possible impacts of the different options.

<b>TITLE OF THE INITIATIVE</b>	Revision of the EU geographical indications (GIs) systems in agricultural products and foodstuffs, wines and spirit drinks
<b>LEAD DG (RESPONSIBLE UNIT)</b>	DG AGRI Unit B3 (Geographical Indications)
<b>LIKELY TYPE OF INITIATIVE</b>	Legislative initiative/ Regulation of the European Parliament and of the Council
<b>INDICATIVE PLANNING</b>	Q3 2021
<b>ADDITIONAL INFORMATION</b>	<a href="https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality/certification/quality-labels_en">https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality/certification/quality-labels_en</a>

**The Inception Impact Assessment is provided for information purposes only. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by the Inception impact assessment, including its timing, are subject to change.**

### A. Context, Problem definition and Subsidiarity Check

#### **Context**

Geographical indications (GIs) identify products having characteristics or reputation due to natural or human factors linked to the place of origin. GIs are protected as intellectual property rights (IPR) to promote fair competition by preventing bad-faith uses. GIs as permanent form of IPR, place special responsibilities on the national and EU authorities, in particular to ensure that the legal title to GIs is secured forever – documentation and decisions never expire. GIs guarantee authenticity to consumers, differentiate these products on the market, and are shown to secure higher-value [sales and exports](#)<sup>1</sup>.

GIs are intellectual property rights recognised [internationally](#) since 1883. They have been protected in steps in the EU from the 1970s (wine GIs) to 1989 (spirit drinks GIs) and to 1992 (agricultural products and foodstuffs GIs, including fishery and aquaculture products). The EU GI system secures producer's rights and value added of their products, both in the internal market and in the international context.

In 2020, all EU GIs, registered under 4 different Regulations, were integrated under a single register, [eAmbrosia](#)<sup>2</sup>, recording in total 3295 GIs and 197 applications for GI. The EU has 34 bilateral agreements with third countries, protecting 1593 non-EU GIs with an additional 751 non-EU GIs under consideration. These agreements also protect EU GIs in the partner countries – some 35 000 instances of GI protection around the world.

The Traditional Speciality Guaranteed (TSG) scheme was adopted in 1992 and is designed to valorise traditional products and production methods. The scheme protects the product name, however it does not give IPR protection. The scheme was reformed in 2012, increasing the scope of protection to prevent 'misuse, imitation or evocation' and 'any other practice liable to mislead consumers', similar to the scope of GI protection. So far, 64 names were registered.

The Commission undertook in the [Farm to Fork Strategy](#) to strengthen the legislative framework of GI schemes, to improve the schemes' contributions to sustainable production, and to strengthen the position of farmers and producer groups of GIs. This initiative is included in the [Commission Work Programme 2021](#) under [REFIT](#) initiatives, linked to the [European Green Deal](#). In addition, the upcoming [IP Action Plan](#) calls for improving the

<sup>1</sup> GIs account for 6.8 % of EU food and drink sales value, and 15.4 % EU food and drink exports. Source: Study on economic value of EU quality schemes, geographical indications (GIs) and traditional specialities guaranteed (TSGs)

<sup>2</sup> Data from 27/10/2020

protection system for geographical indications to make it more effective.

[Council Conclusions on the Farm to Fork Strategy](#) welcomed a better integration of sustainable development into European quality policy, and invited the Commission to reaffirm the relevance and importance of European quality schemes and to strengthen the legislative framework on geographical indications.

In parallel to this initiative, the Commission is also considering the creation of an efficient and transparent EU GI protection system for non-agricultural products. This would enable the EU to fully benefit from the opportunities offered by the international system of the [Geneva Act](#) for the international registration of appellations of origin and geographical indications managed by World Intellectual Property Organisation.

#### **Problem the initiative aims to tackle**

An [evaluation](#) of the European quality policy is on-going and the support study is to be finalised by end December 2020. It will inform on effectiveness, efficiency, relevance, coherence and value added of the policy. Preliminary findings pointed to some shortcomings, notably in the area of protection and enforcement, sustainability aspects, consumer awareness and regulatory procedures. This helps to identify the 6 principle problems that this initiative will tackle:

- (1) Protection of GIs does not in all cases fully secure the [fundamental rights](#)<sup>3</sup> of producers, i.e. IP rights on their GIs. Some national systems for control and verification of producers' production compliance are under-resourced or do not fully cover GIs, including enforcement on the internet.
- (2) Developments in the market place with regard to the use of protected names move at a faster pace than the legal framework, causing in some cases legal uncertainty. This, combined with complex rules and procedures to register and amend a GI, may discourage producers and increase administrative burden for public administrations.
- (3) Citizens' sustainability concerns are not sufficiently reflected in the GI schemes. As an instrument that valorises products intrinsically linked to the natural factors and know-how of producers in a local area, GIs are under-exploited for the purpose of promoting sustainability characteristics. In particular, environmental sustainability and animal welfare have been pointed by the [public consultation](#) in the context of the ongoing evaluation. Health concerns have also been mentioned.
- (4) GI producer groups, mostly composed of SMEs, are vulnerable to unfair pressures from downstream operators in the food supply chain. They lack tools for further strengthening their position in the food supply chain to keep securing a fair return for their product.
- (5) Consumer recognition of EU schemes and EU logos is very low while recognition of famous GI names is very high, pointing low effectiveness of the EU logos. The latest [Eurobarometer](#) shows modest progress in citizen's knowledge and understanding of the meaning of these logos.
- (6) TSGs have never taken off, thus failed in making an impact on promoting the EU famed traditional products. Only 64 product names have been registered in 28 years of operation (an average of about 1 TSG per MS per 10 years). In addition, most TSGs are linked to regions or Member States and are overlapping with the GI instrument.

#### **Basis for EU intervention (legal basis and subsidiarity check)**

The proposed GI initiative falls within the scope of the common agricultural policy (CAP, Article 43 of the [TFEU](#)), intellectual property rights (IPR, Article 118 of the TFEU) and the common commercial policy (CCP, Article 207 of TFEU).

\* As regards the CAP, requirements and rules for the placing of agricultural products, foodstuffs, wines and spirit drinks on the internal market and ensuring the integrity of the internal market are matters of EU competence.

\* As regards the CCP, GIs as an IPR instrument are also exclusive EU competence. The GI schemes implement the EU's obligations (as far as agricultural product is concerned) under the [Agreement on Trade-Related Aspects of Intellectual Property Rights \(TRIPS\)](#) to provide the legal means to protect GIs of all WTO members in the EU.

\* While some types of IPR domestically are divided on national lines due to historical factors, this is recognised as an impediment to the single market. In the case of GIs, having been an EU competence *ab initio*, the fragmentation of rights on national lines has not occurred and the benefit to cross-border commerce of protecting product designations throughout the single market should be maintained.

<sup>3</sup> European Charter on Fundamental Rights, Article 17(2): 'Intellectual property shall be protected.'

\* The EU has a particular responsibility to ensure protection of citizens' IPR rights in their GIs, as this is mandated under the EU Charter of Fundamental Rights.

TSGs are not covered by IPR and there is no obligation from the Charter nor internationally to provide the protection (although once provided it must be open to all WTO members). EU level action is justified to ensure the operation of the single market, including the designations under which products are marketed. However, Member States are best placed to identify their traditional products. Alternative instruments exist to protect traditional designations at EU level, including GIs where the traditional attribute is linked to a certain region or Member State, different types of trade marks and the use of quality terms which add value, to be applied voluntarily.

## B. Objectives and Policy options

The general objective is to strengthen GIs by increasing the take up of these IP rights across the EU while ensuring effective protection of these rights within the EU. The initiative contributes to the objectives of the *Green Deal* and *Farm to Fork* strategy in terms of economic, environmental and social sustainability. Falling under the REFIT programme, it will also consider simplification and administrative burden reduction. The specific objectives are:

- (1) improve protection and enforcement of GIs in the Member States, notably on the internet, to ensure effective and efficient use of producers' rights;
- (2) clarify legal framework, while maintaining wine and spirit drinks specificities, and increase efficiency of GI registration procedures to make GI legislation fit for purpose;
- (3) encourage GI producers to place on the market environmentally and socially sustainable GI product to meet societal demands and consumer expectations;
- (4) make the GI instrument more attractive to producer groups across the EU by empowering them to better manage their GI asset, including in enforcement, and so help them improving economic sustainability;
- (5) enable consumers to make informed choices on GIs by giving clear information on GIs through the logo and labelling information;
- (6) review TSG scheme to better valorise traditional products and traditional production methods.

To test how these objectives can be best met, the following set of possible policy options will be developed and explored. In the baseline scenario (no policy change), the current requirements are unchanged and the schemes evolve through the implementation of CAP post-2020 measures and through relevant initiatives under the Farm to Fork Strategy. The baseline will include the effects of the COVID-19 crisis. The scenario of 'no EU action' will test the EU value-added of the system for GIs at EU level in particular against alternatives such as collective or certification trade marks at EU and Member State level.

Further scenarios will be defined as a combination of several or all of the following options (non-exhaustive list):

- a) Streamlining the GI framework:
  - modernise registration and enforcement procedures to create a simpler, more coherent and harmonised system which does not create unnecessary burdens, and delivers results at minimum cost;
  - equip producer groups with management tools for their GI products like standards setting, training, marketing, empowering them to enforce their GI rights and manage supply;
- b) Enhancing effectiveness of GI protection:
  - improve enforcement of GI protection by recalibrating Member States' checks in the marketplace and verification of producer-compliance, to better protect IPR;
  - better protect GIs on the internet, including in the domain name system (DNS), to decrease counterfeiting;
  - increase transparency of GIs through an ongoing 'GI view' database project, linking producer groups with enforcement and anti-fraud bodies;
  - increase market perception of GIs and consumer awareness of EU quality schemes and logos through improved labelling and consumer information;
- c) Integrating societal challenges in the GI framework:

- develop rules or guidelines for sustainable GI production, in particular related to the protection of natural resources or landscape, improving animal welfare and social responsibility;
- incentivise producers to improve environmentally and socially sustainable GI production, address climate mitigation and adaptation (e.g. through rural developments measures), to contribute to the green transition;

d) Promoting protection of traditional food names:

- explore alternatives for the TSG scheme such as the protection of the term 'traditional speciality guaranteed' and 'TSG' as optional quality terms and the use of existing national and EU instruments (e.g. Protected Geographical Indication and certification and collective trade marks).

## C. Preliminary Assessment of Expected Impacts

### Likely economic impacts

The initiative will benefit GI producers by equipping them with management tools. The possibility to manage the supply of GI products will increase their bargaining powers in the food chain and ensure that they can better address demand, thus enhancing their response to consumer needs. Improved protection of intellectual property rights, coupled with improved enforcement of GI rights, with a special focus on protection on the internet, will contribute to securing producers' incomes and decreasing the risk of usurpation, imitation and evocation of GI names.

The initiative will benefit consumers by further strengthening the guarantee of authenticity of GI-designated products and enabling them to choose products with known origin, bearing quality characteristics linked to natural and human factors in the area of production. Improved labelling and consumer information will boost knowledge of the scheme and thereby contribute to supporting GI production.

Increased environmental and social sustainability of GI products can contribute to market differentiation and will better meet societal demand and consumer expectations.

Investments done by GI producers to produce and process in a (more) sustainable manner may entail additional costs for producers. These will be offset by gains on a medium to longer term by increased consumers' demand and their willingness to pay, triggered also by improved product information and knowledge of the GI schemes and embedded environmental/sustainable characteristics of the products.

### Likely social impacts

The initiative will empower GI producers to maintain and possibly extend their production in rural areas, notably via improved GI protection and a stronger role of GI producer groups in managing their collective asset. Because of their intrinsic link with the human factors in the place of production (skills and traditions), GIs are a key vehicle for delivering rural growth. GIs have the effect to fix social factors, like rural employment and traditional production methods to the designated area: production cannot be delocalised without losing use of the GI name. GIs have well-known spill over effects on tourism, downstream processing, cultural events in a given region, and offer possibilities for promotion of rural and cultural assets. Preservation of traditional production methods, know-how and skills will contribute to social cohesion and the maintenance of the social fabric in rural and often remote areas. Citizens and consumers will continue to benefit from a variety of products with high added value, stemming from specific features that natural and human environment embeds in GIs produced in a particular region.

GIs create benefits for less developed or rural regions. The situation in these regions is likely to worsen in the wake of the COVID-19 pandemic. Regional inequalities can drive people to move in search of opportunities elsewhere, leading to demographic decline in their home regions. The coronavirus crisis risks exacerbating these differences, by widening already existing divisions, further reducing the Union's [economic, social and territorial cohesion](#).

### Likely environmental impacts

The initiative will encourage a shift to more sustainable production patterns and reduce environmental impacts from GI products consumed in the EU. Many GIs contribute already today to preserving habitats and biodiversity, natural flora and fauna, maintaining local plant varieties and animal breeds that are adapted to their environment or reviving local ecotype varieties. They may also have mitigation effects against the rise of temperatures by preserving soils, reducing fires risks and desertification threats. Engaging producers into environmentally sustainable GI production will increase these positive impacts.

### Likely impacts on fundamental rights

Any future proposal will be in accordance with Article 17(2) of the European Charter of Fundamental Rights, whereby the EU must ensure the protection of intellectual property rights. Other fundamental rights embedded in the Charter such as consumer and environmental protection should be improved by this initiative.

<b>Likely impacts on simplification and/or administrative burden</b>
Depending on its exact content, the initiative may require adaptations for businesses and public administrations from the outset. Clarifying and harmonising the GI procedural rules will help public administrations to process applications faster, resulting in shorter registration times to the benefit of GI producers. As the rules provide more clarity, and the database 'GI view' more transparency, enforcement authorities and national courts will find them easier to apply, resulting in a more efficient and effective respect of producer's rights and an overall increase of consumer protection. By using the 'GI view' database, besides the electronic GI registers, GIs will become fully fit for digital age. Costs and benefits will be quantified to the extent possible.
<b>D. Evidence Base, Data collection and Better Regulation Instruments</b>
<b>Impact assessment</b>
An impact assessment will be prepared in 2020/21 to underpin the Commission's proposal.
<b>Evidence base and data collection</b>
The Commission has been collecting and analysing information relating to the EU quality schemes – both GIs and TSGs as part of the evaluation of the EU policy (Final Report of the support study due in December 2020). Moreover, the Commission has carried out a <a href="#">study on the sales value and exports of GIs and TSGs</a> . In addition to consultation activities, further literature review will complement the evidence base.
<b>Consultation of citizens and stakeholders</b>
In 2019/20, the Commission carried out a public consultation in the context of the evaluation. Position papers from stakeholders received in this context have focussed on the effectiveness, efficiency, relevance, coherence and value-added of the EU geographical indications (GIs) systems. In the course of 2020, in addition to the feedback received on this Inception Impact Assessment, the following consultation activities are planned: <ul style="list-style-type: none"> <li>• High-level Conference "Strengthening geographical indications" on 25/26 November 2020 to be the launch-pad for the consultation process;</li> <li>• Launch of 12-week public consultation in all official EU languages accessible via the Commission's 'Have your say' website;</li> <li>• Further targeted consultations and meetings with Member State experts and stakeholders, notably via the Civil Dialogue Group "Quality and Promotion" will take place in 2020 and 2021.</li> </ul> An overall synopsis report will be included in the impact assessment report, covering the results of the different consultation activities that took place in the frame of the impact assessment.
<b>Will an Implementation plan be established?</b>
In case of a proposal for a Regulation no implementation plan is envisaged.